

REMARKS***Summary of the Response***

By the present response, claims 84 and 85 have been amended. Applicant submits that no new matter is added by the present amendment. Support for the amendment may be found, for example, at least in previously presented claim 85 and paragraphs [0031] – [0037] (of the published application US2007/0108944). Accordingly, upon entry of the amendment, claims 84 – 143 will be pending. Reconsideration of the rejected claims in view of the above amendment and following remarks is respectfully requested.

Additionally, by the present response, Applicant has amended Figures 6, 8, 9 and 10 to provide descriptive text labels, as requested by the Examiner. Applicant submits that no new matter is added by the above amendment. Support for the amendment may be found for example, in paragraphs [0060], [0062], [0064] and [0065].

Summary of the Office Action

In the instant Office Action, the Examiner has rejected claims 84 – 143 over the art of record. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Restriction Requirement

Applicant acknowledges with appreciation that the Election of Species requirement dated April 30, 2009 has been withdrawn.

Information Disclosure Statement

Applicant appreciates the Examiner's indication that the IDS dated June 15, 2006 has been considered. However, while acknowledging that the Examiner has indicated "ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH," the Examiner has specifically initialed each of the documents but for EP 0291131. Thus, while Applicant understands EP 0291131 (which is in the English-language) to have been considered by the Examiner, Applicant respectfully requests the Examiner send a copy of the PTO-1449 with each of the documents initialed as considered to clarify the above-noted apparent discrepancy.

Traversal of Drawing Objections

The Examiner has objected to the drawings for lacking descriptive text labels. Applicant respectfully reminds the Examiner of MPEP § 608.02(d), which states (emphasis added):

37 CFR 1.83 Content of drawing.

(a) **>The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.<

Applicant submits that Figures 6 and 8 – 10 include labeled rectangular boxes (i.e., boxes with associated reference numerals). As such, Applicant respectfully submit that the Figures are in compliance with MPEP § 608.02(d).

In any event, by the present amendment, Applicant has presented amended drawings in an attempt to address the Examiner's concerns. Accordingly, Applicant requests the objection to the drawings be withdrawn and that the Examiner confirm the drawings are acceptable.

Traversal of Rejection on the Grounds of Nonstatutory Obviousness-type Double Patenting

Applicant traverses the rejection of claims 84 – 143 on the ground of nonstatutory obviousness-type double patenting over claims 1 – 26, respectively, of U.S. Patent No. 7,592,773 [hereinafter "the '773 patent"]. By the present amendment, Applicant has amended claim 84 with additional features, which are not rendered obvious by the '773 claims.

As such, Applicant respectfully submits the rejection of claims 84 – 143 on the ground of nonstatutory obviousness-type double patenting has been rendered moot. Accordingly, Applicant respectfully requests the rejection of claims 84 – 143 on the ground of nonstatutory obviousness-type double patenting be withdrawn.

Traversal of Rejections Under 35 U.S.C. § 102

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. Applicant submits that none of the references of record disclose each of the features of the present invention.

1. Over SAKAKIBARA

Applicant traverses the rejection of claims 84 and 88 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,433,517 to Sakakibara [hereinafter SAKAKIBARA]. The rejection is respectfully traversed.

Independent Claim 84

The present invention relates to a portable electric tool set. Independent claim 84 recites, in pertinent part:

. . . wherein the battery comprises one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery,

wherein at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase, and

wherein the at least one of the at least one electric or electronic module and the cutoff device are operable to prevent over-discharging of the battery during operation of the tool.

In addressing previously presented claim 84, the Examiner asserts SAKAKIBARA discloses each of the features of previously presented claim 84. While Applicant does not agree with the Examiner that the applied art under 35 U.S.C. §102(b) anticipates the embodiments of the invention recited in at least claim 84, in an effort to advance prosecution, claim 84 has been amended to even more clearly define the features of the present invention. Further, Applicant expressly reserves the right to refile the subject of independent claim 84 as presented prior to this amendment in one or more continuing applications.

Applicant respectfully submits that SAKAKIBARA does not disclose each of the features of currently amended claim 84. For example, Applicant submits SAKAKIBARA at least does

not disclose the battery comprising one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery.

SAKAKIBARA is directed to a battery charger and charging method for a nickel metal hydride battery. (See, e.g., column 1, lines 28 – 39.) As such, Applicant submits SAKAKIBARA does not disclose the battery comprising one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery, as recited in claim 84, and does not anticipate the present invention.

Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of claim 84 and indicate that claim 84 is allowable over SAKAKIBARA.

Dependent Claim 88

Applicant respectfully submits that claim 88 depends from allowable independent claim 84, and is allowable based upon the allowability of independent claim 84, and because this claim recites additional subject matter to further define the instant invention.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 88, and indicate claim 88 is allowable.

2. Over SAKOH

Applicant traverses the rejection of claims 84 and 88 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,229,280 to Sakoh et al. [hereinafter SAKOH]. The rejection is respectfully traversed.

In addressing previously presented claim 84, the Examiner asserts SAKOH discloses each of the features of previously presented claim 84. While Applicant does not agree with the

Examiner that the applied art under 35 U.S.C. §102(b) anticipates the embodiments of the invention recited in at least claim 84, in an effort to advance prosecution, claim 84 has been amended to even more clearly define the features of the present invention. Further, Applicant expressly reserves the right to refile the subject of independent claim 84 as presented prior to this amendment in one or more continuing applications.

Applicant respectfully submits that SAKOH does not disclose each of the features of currently amended claim 84. For example, Applicant submits SAKOH at least does not disclose the battery comprising one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery.

SAKOH is directed to a power tool charging system having a charge level indicator and charge control functions specifically directed to a nickel-cadmium (NiCad) battery. (See, e.g., column 4, lines 8 – 14.) As such, Applicant submits SAKOH does not disclose the battery comprising one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery, as recited in claim 84, and does not anticipate the present invention.

Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of claim 84 and indicate that claim 84 is allowable over SAKOH.

Dependent Claim 88

Applicant respectfully submits that claim 88 depends from allowable independent claim 84, and is allowable based upon the allowability of independent claim 84, and because this claim recites additional subject matter to further define the instant invention.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 88, and indicate claim 88 is allowable.

3. Over TAKANO

Applicant traverses the rejection of claims 84, 85, 88 – 90, 94, 95, 101, 103 and 107 - 110 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0096158 to Takano et al. [hereinafter TAKANO]. The rejection is respectfully traversed.

In addressing previously presented claim 84, the Examiner asserts TAKANO discloses each of the features of previously presented claim 84. While Applicant does not agree with the Examiner that the applied art under 35 U.S.C. §102(e) anticipates the embodiments of the invention recited in at least claim 84, in an effort to advance prosecution, claim 84 has been amended to even more clearly define the features of the present invention. Further, Applicant expressly reserves the right to refile the subject of independent claim 84 as presented prior to this amendment in one or more continuing applications.

Applicant respectfully submits that TAKANO does not disclose each of the features of currently amended claim 84. For example, Applicant submits TAKANO at least does not disclose at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase.

TAKANO is directed to a battery pack and cordless power tool. Applicant submits, however, that TAKANO is completely silent with regard to “overcharging,” “over-charging,” “over charging,” “overcharge,” “over-charge,” “over charge,” “overcharged,” “over-charged” and “over charged.” As such, Applicant respectfully submits TAKANO does not disclose at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase, and does not anticipate the present invention.

Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of claim 84 and indicate that claim 84 is allowable over TAKANO.

Dependent Claims 85, 88 – 90, 94, 95, 101 – 103 and 107 – 110

Applicant respectfully submits that claims 85, 88 – 90, 94, 95, 101, 103 and 107 – 110 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 85, 88 – 90, 94, 95, 101, 103 and 107 - 110, and indicate claims 85, 88 – 90, 94, 95, 101, 103 and 107 – 110 are allowable.

4. Over CARRIER

Applicant traverses the rejection of claims 84, 85, 88 – 90, 94 – 96, 98 – 105, 107 – 110, 132, 135 – 137 and 139 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2005/0077878 to Carrier et al. [hereinafter CARRIER]. The rejection is respectfully traversed.

Independent Claim 84

Applicant respectfully submits CARRIER does not constitute prior art against the present invention to the extent the Examiner asserts. More specifically, the present invention has a filing date of November 19, 2004 and claims a priority date of November 20, 2003 to FR 0313608. CARRIER has a filing date of October 7, 2004 and claims priority to two provisional

applications: 60/510,128 filed October 14, 2003 and 60/551,803 filed March 11, 2004. Thus, Applicant submits that only provisional application 60/510,128 filed October 14, 2003 has a date prior to the claimed priority date of the instant application.

However, Applicant submits that provisional application 60/510,128, which includes only two pages of text and figures, is the extent to which the Examiner may rely on CARRIER. In other words, Applicant respectfully submits that, at best, the Examiner can only rely on the subject matter disclosed in CARRIER that corresponds to the two pages of disclosure submitted in U.S. provisional application 60/510,128.

Applicant respectfully reminds the Examiner of MPEP 201.11, directed to Claiming the Benefit of an Earlier Filing Date Under 35 U.S.C. 120 and 119(e), which states (emphasis added):

I. DISCLOSURE REQUIREMENT

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application); the disclosure of the invention in the prior application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Prods., Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994). The prior-filed application must disclose the common named inventor's invention claimed in the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. See 37 CFR 1.78(a)(1). Accordingly, the disclosure of the prior-filed application must provide adequate support and enablement for the claimed subject matter of the later-filed application in compliance with the requirements of 35 U.S.C. 112, first paragraph.

A. Claiming the Benefit of Provisional Applications

Under 35 U.S.C. 119(e), the written description and drawing(s) (if any) of the provisional application must adequately support and enable the subject matter claimed in the nonprovisional application that claims the

benefit of the provisional application. In *New Railhead Mfg., L.L.C. v. Vermeer Mfg. Co.*, 298 F.3d 1290, 1294, 63 USPQ2d 1843, 1846 (Fed. Cir. 2002), the court held that for a nonprovisional application to be afforded the priority date of the provisional application, "the specification of the provisional must 'contain a written description of the invention and the manner and process of making and using it, in such full, clear, concise, and exact terms,' 35 U.S.C. § 112 ¶1, to enable an ordinarily skilled artisan to practice the invention claimed in the nonprovisional application."

...
A claim is not required in a provisional application. However, for a claim in a later filed nonprovisional application to be entitled to the benefit of the filing date of the provisional application, the written description and drawing(s) (if any) of the provisional application must adequately support and enable the subject matter of the claim in the later filed nonprovisional application. If a claim in the nonprovisional application is not adequately supported by the written description and drawing(s) (if any) of the provisional application (as in *New Railhead*), that claim in the nonprovisional application is not entitled to the benefit of the filing date of the provisional application. If the filing date of the earlier provisional application is necessary, for example, in the case of an interference or to overcome a reference, care must be taken to ensure that the disclosure filed as the provisional application adequately provides (1) a written description of the subject matter of the claim(s) at issue in the later filed nonprovisional application, and (2) an enabling disclosure to permit one of ordinary skill in the art to make and use the claimed invention in the later filed nonprovisional application without undue experimentation.

In view of the above, Applicant respectfully submits the rejection of claims 84, 85, 88 – 90, 94 – 96, 98 – 105, 107 – 110, 132, 135 – 137 and 139 over CARRIER is *per se* improper. For example, in rejecting independent claim 84, the Examiner asserts CARRIER discloses a first sub-unit generating a mechanical operation of a tool comprising an electric actuator, directing Applicant to elements 10, 20 or 30 in Figures 17, 18 or 19, or element 170 in Figure 3B of CARRIER. However, Applicant respectfully submits that provisional application 60/510,128 is completely silent as to such features and includes no illustration of such features. Thus, for this reason alone, Applicant respectfully submits that the Examiner has improperly relied on the filing date of provisional application 60/510,128 to establish the entire disclosure of CARRIER

as prior art under 35 U.S.C. § 102(e). Moreover, in view of the above, Applicant submits CARRIER at least does not disclose a first sub-unit generating a mechanical operation of a tool comprising an electric actuator, as recited in claim 84, and does not anticipate the present invention.

Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of claim 84 and indicate that claim 84 is allowable over CARRIER.

Dependent Claims 85, 88 – 90, 94 – 96, 98 – 105, 107 – 110, 132, 135 – 137 and 139

Applicant respectfully submits that claims 85, 88 – 90, 94 – 96, 98 – 105, 107 – 110, 132, 135 – 137 and 139 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 85, 88 – 90, 94 – 96, 98 – 105, 107 – 110, 132, 135 – 137 and 139, and indicate claims 85, 88 – 90, 94 – 96, 98 – 105, 107 – 110, 132, 135 – 137 and 139 are allowable.

Traversal of Rejections Under 35 U.S.C. § 103(a)

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness. See MPEP §2142. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of

ordinary skill in the art, to modify the reference or to combine reference teachings.¹ Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

1. Over SAKAKIBARA in view of PFEIFER

Applicant traverses the rejection of claims 86, 87 and 91 – 93 under 35 U.S.C. § 103(a) as being unpatentable over SAKAKIBARA in view of U.S. Patent No. 6,087,815 to Pfeifer et al. [hereinafter “PFEIFER”]. The rejection is respectfully traversed.

Dependent Claims 86, 87 and 91 – 93

Applicant respectfully submits that claims 86, 87 and 91 – 93 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Applicant notes that PFEIFER has not been alleged to cure the deficiencies of SAKAKIBARA in reference to currently presented claim 84. Moreover, Applicant submits that PFEIFER does not cure the deficiencies of SAKAKIBARA in reference to currently presented claim 84. For example, Applicant submits that PFEIFER does not teach or suggest the battery

¹ While the *KSR* court rejected a rigid application of the teaching, suggestion, or motivation (“TSM”) test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does” in an obviousness determination. *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

comprising one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery. Applicant notes PFEIFER is completely silent with regard to "lithium." As such, Applicant submits that no proper combination of SAKAKIBARA and PFEIFER teach or suggest each of the features of the present invention, and that SAKAKIBARA in view of PFEIFER does not render the present invention unpatentable.

Further, as neither applied document teaches a lithium ion or lithium polymer battery, there is no apparent reasoning in the applied art for one ordinarily skilled in the art to monitor and cut off a charging and discharging of the battery.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 86, 87 and 91 – 93, and indicate claims 86, 87 and 91 – 93 are allowable.

2. Over SAKAKIBARA alone

Applicant traverses the rejection of claims 97 and 106 under 35 U.S.C. § 103(a) as being unpatentable over SAKAKIBARA alone. The rejection is respectfully traversed.

Dependent Claims 97 and 106

Applicant respectfully submits that claims 97 and 106 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 97 and 106, and indicate claims 97 and 106 are allowable.

3. Over CARRIER in view of KOPERA

Applicant traverses the rejection of claims 111 – 115, 119 – 125, 127 – 129, 140 and 141 under 35 U.S.C. § 103(a) as being unpatentable over CARRIER in view of U.S. Patent No. 5,808,469 to Kopera [hereinafter “KOPERA”]². The rejection is respectfully traversed.

Dependent Claims 111 – 115, 119 – 125, 127 – 129, 140 and 141

Applicant respectfully submits that claims 111 – 115, 119 – 125, 127 – 129, 140 and 141 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Moreover, for the reasons articulated above, Applicant submits that CARRIER is not prior art to the extent the Examiner asserts. That is, Applicant submits that, at best, CARRIER only constitutes prior art for the subject matter disclosed in U.S. provisional application 60/510,128. Thus, to the extent the Examiner asserts CARRIER teaches or suggests features of claims 111 – 115, 119 – 125, 127 – 129, 140 and 141, Applicant submits that such assertions are improper, as these features are not taught or suggested in provisional application 60/510,128.

Applicant notes that KOPERA has not been alleged to cure the deficiencies of CARRIER in reference to currently presented claim 84, and that that KOPERA does not cure the noted deficiencies of CARRIER. For example, Applicant submits that KOPERA does not teach or suggest a first sub-unit generating a mechanical operation of a tool comprising an electric actuator, as recited in claim 84. Applicant notes that KOPERA is explicitly directed to a battery

² Applicant notes the Examiner misidentified U.S. Patent No. 5,808,469 as issued to Rouillard et al. However, in addressing the present rejection Applicant assumes the Examiner intended to identify KOPERA, which is listed on Form 892.

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for electric vehicles, and is completely silent with regard to “tool.” As such, Applicant submits that no proper combination of CARRIER and KOPERA teach or suggest each of the features of the present invention, and that CARRIER in view of KOPERA does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 111 – 115, 119 – 125, 127 – 129, 140 and 141, and indicate claims 111 – 115, 119 – 125, 127 – 129, 140 and 141 are allowable.

4. Over TAKANO in view of KOPERA

Applicant traverses the rejection of claims 111 – 116 and 119 under 35 U.S.C. § 103(a) as being unpatentable over TAKANO in view of KOPERA³. The rejection is respectfully traversed.

Dependent Claims 111 – 116 and 119

Applicant respectfully submits that claims 111 – 116 and 119 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Applicant notes that KOPERA has not been alleged to cure the deficiencies of TAKANO in reference to currently presented claim 84. Moreover, Applicant submits that KOPERA does not cure the deficiencies of TAKANO in reference to currently presented claim 84. For example, Applicant submits that KOPERA does not teach or suggest at least one of the at least

³ Again, Applicant notes the Examiner misidentified U.S. Patent No. 5,808,469 as issued to Rouillard et al. In addressing the present rejection Applicant assumes the Examiner intended to identify KOPERA, which is listed on Form 892.

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one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase, as recited in claim 84. Applicant notes that KOPERA is entirely silent with regard to “overcharging,” “over-charging,” “over charging,” “overcharge,” “over-charge,” “over charge,” “overcharged,” “over-charged” and “over charged.” As such, Applicant submits that no proper combination of TAKANO and KOPERA teach or suggest each of the features of the present invention, and that TAKANO in view of KOPERA does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 111 – 116 and 119, and indicate claims 111 – 116 and 119 are allowable.

5. Over TAKANO alone

Applicant traverses the rejection of claim 142 under 35 U.S.C. § 103(a) as being unpatentable over TAKANO alone. The rejection is respectfully traversed.

Dependent Claim 142

Applicant respectfully submits that claim 142 depends from allowable independent claim 84, and is allowable based upon the allowability of independent claim 84, and because this claim recites additional subject matter to further define the instant invention.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 142, and indicate claim 142 is allowable.

6. Over TAKANO in view of POPESCU

Applicant traverses the rejection of claim 118 under 35 U.S.C. § 103(a) as being unpatentable over TAKANO in view of U.S. Patent Publication No. 2003/0096158 to Popescu [hereinafter "POPESCU"]. The rejection is respectfully traversed.

Dependent Claim 118

Applicant respectfully submits that claim 118 depends from allowable independent claim 84, and is allowable based upon the allowability of independent claim 84, and because this claim recites additional subject matter to further define the instant invention.

Applicant notes that POPESCU has not been alleged to cure the deficiencies of TAKANO in reference to currently presented claim 84. Moreover, Applicant submits that POPESCU does not cure the deficiencies of TAKANO in reference to currently presented claim 84. For example, Applicant submits that POPESCU does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase, as recited in claim 84. Instead, Applicant notes that POPESCU teaches a bleeder circuit to subtract from a charging circuit to effectively reduce a charging current. (See, e.g., column 2, lines 33 – 55 and the abstract.) As such, Applicant submits that no proper combination of TAKANO and POPESCU teach or suggest each of the features of the present invention, and that TAKANO in view of POPESCU does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 118, and indicate claim 118 is allowable.

7. Over TAKANO in view of SAKAKIBARA

Applicant traverses the rejection of claims 137 and 138 under 35 U.S.C. § 103(a) as being unpatentable over TAKANO in view of U.S. Patent No. 7,227,335 to SAKAKIBARA et al. [hereinafter SAKAKIBARA '335]. The rejection is respectfully traversed.

Applicant respectfully submits that claims 137 and 138 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Applicant submits that SAKAKIBARA '335 does not cure the above-noted deficiencies of TAKANO in reference to currently presented claim 84. For example, Applicant submits that SAKAKIBARA '335 does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase, as recited in claim 84. Applicant notes that SAKAKIBARA '335 is entirely silent with regard to "overcharging," "over-charging," "overcharge," "over-charge," "over charge," "overcharged," "over-charged" and "over charged." While Applicant notes that SAKAKIBARA '335 does mention "over charging" at column 34, lines 5 – 12, Applicant submits that this discussion is limited to providing a history of past occurrences which can cause degradation.

As such, Applicant submits SAKAKIBARA '335 does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase, as recited in claim 84. Thus, Applicant submits that no proper combination of TAKANO and SAKAKIBARA '335 teach or suggest each of the features of the present invention, and that TAKANO in view of SAKAKIBARA '335 does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 137 and 138, and indicate claims 137 and 138 are allowable.

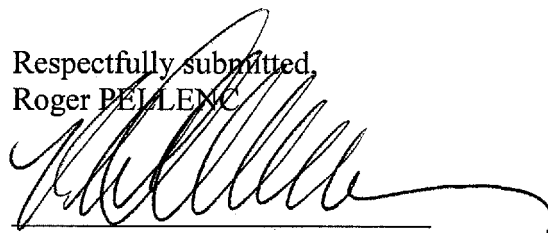
CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicant's invention, as recited in claims 84 – 143. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

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